



CONNECTICUT RIVER WATERSHED COUNCIL

The River Connects Us

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Senator Duff and Representative Reed and members of the Energy & Technology Committee,

Thank you for the opportunity to testify today on SB 1138, *An Act Concerning Connecticut's Clean Energy Goals*. My name is Andrew Fisk and I am the Executive Director of the Connecticut River Watershed Council. Since 1952, we have been the principal citizen advocate for the entire 11,000 square mile watershed from its source to the sea. Our work informs our vision of both ecological and economic abundance.

I am speaking today in opposition to the proposal as drafted as well as the current Class 1 definition in regard to hydropower. That said let me reiterate that we support the Malloy Administration's work to develop and implement a Comprehensive Energy Strategy. We also fully support hydropower as a renewable energy source. Many of the founders of our organization were hydropower developers and they continue to support our work today. But we also support healthy rivers because restored migratory fish runs and aquatic habitat are strong drivers of economic growth and improved quality of life.

CRWC has decades of experience in evaluating hydropower, negotiating licenses for large and small facilities throughout the watershed. A decade ago we were one of the principal negotiators in the massive 15-Mile Falls hydropower project located on the Connecticut River. We are also currently involved in the simultaneous relicensing of five hydropower facilities also on the Connecticut that generate 30% of New England's electricity. As well we have been invited advisors to the Federal Energy Regulatory Commission when they were developing new licensing regulations and procedures several years ago. In my prior position with Maine state government, I was a regulator responsible for state oversight and licensing of hydropower facilities.

The Council is troubled by the proposal in front of you today because it does not sufficiently define the type of hydropower facility that warrants the significant financial benefits of Class 1 designation. Hydropower provides clean, carbon-free, energy, but it also can have substantial impacts on river health by blocking fish passage, dewatering areas where fish and other critters raise their young, and degrading habitat along riverbanks by allowing water to fluctuate up and down.

The premium prices afforded to Class 1 energy generators should only go to premium facilities.

Here are seven points that we think represent hydropower worthy of the substantial financial incentive in the Connecticut RPS.

1. Run-of-river operation needs to be included in any definition of Class 1 hydro and it must be defined so that it is accurately described as a constant flow of water through a facility. Some dams claim to be run-of-river, but actually allow for up to 5-foot fluctuations in water level over a 24-hour period.

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2. There must be ecologically relevant flow releases from facilities, such that by-pass reaches not otherwise receiving run-of-river flows are guaranteed to have sufficient water to function as habitat as determined by state fisheries biologists.
3. Upstream and downstream passage for all migrating species must be present and functional. Species such as shad, river herring, or eels need to be allowed to move up and downstream from those dams that are determined by state fisheries biologists to block passage.
4. All facilities must be in compliance with their FERC licenses and state water quality certificates issued under Section 401 of the Clean Water Act.
5. The generating capacity of facilities should not be a criteria for eligibility. A 5MW facility or a 30 MW facility can do a great deal of harm to river systems if they are not operating according to best practices. Eligibility should be driven solely by the criteria outlined above.
6. Facilities in the New England power pool should not be able to go venue shopping. A facility that would not be able to obtain certification under the laws and regulations of the state in which it is located should not be able to obtain certification in another state.

One simple example of why the current Class 1 hydropower definition, much less the one proposed in this bill, needs to be overhauled comes from Maine. The current Connecticut definition does not require any form of fish passage, only that a facility be run-of-river. A small hydropower facility located on a tributary of Maine's Penobscot River with significant Atlantic salmon habitat which in Maine is a listed endangered species, was granted Class 1 status – despite it not having any fish passage. It does not have fish passage despite an order from the federal energy regulatory commission from 2002 requiring it to do so. So flagrant noncompliance by a dam blocking important endangered species habitat is rewarded with premium prices supported by Connecticut ratepayers. That's not right.

I would be happy to provide the committee with a copy of a December 2012 order from the FERC that outlines the many problems with this particular dam that has been deemed upon appeal to the CT PURA, to still be eligible for Class 1 status. It is still eligible because of the shortcomings of the current Class 1 hydro definition.

Finally what we do not see as crucial to the definition is the use of the Low Impact Hydropower Institute's (LIHI) certification program. If Connecticut statutes have strong standards for what is truly low-impact hydro that are evaluated by state fisheries biologists, then you do not need a third party stamp of approval. To be candid, the LIHI program is broken and in need of repair. They themselves note that they need to overhaul their certification process. However they have been saying this for years and years. Despite now two half-hearted and incomplete efforts to create a program that ensures certification is given to dams that are truly low-impact, there is no obvious

effort at when or how LIHI will make itself a credible program. One example of this program's failings is the issuance of a certificate to a hydropower facility in Vermont that was opposed by all state and federal biologists involved in the review process. The Council does not believe that we should rubber stamp existing hydropower facilities many of which are owned by large multinational utilities that have the financial and technical resources to improve their operations so they are truly low impact.

Thank you for the opportunity to speak to you today and I would be happy to answer any questions you have or provide additional information that is helpful in your deliberations.